



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
STATE PLANNING COORDINATION**

September 19, 2005

Mr. Doug Liberman
Larson Engineering, Inc.
2717 Pulaski Highway
Newark, DE 19702

RE: PLUS review – PLUS 2005-08-11; North Dover Park Center

Dear Mr. Liberman:

Thank you for meeting with State agency planners on August 31, 2005 to discuss the proposed plans for the North Dover Park Center project to be located on the southbound side of U.S. Route 13, 1,100 feet northwest of Fork Branch Road.

According to the information received, you are seeking rezoning of 19.92 acres from RMH to BG for the purpose of constructing a 117,981 sq. ft. commercial center.

This PLUS review is limited to the rezoning application. A separate PLUS review will be required should the rezoning be approved and a site plan for the commercial center is proposed. This was discussed at the PLUS meeting and agreed to by you as the developer's representative. During that discussion you noted that it was your wish to bring the commercial center back through PLUS since the plans are too preliminary at this time, and it was uncertain whether a center of the type and configuration shown to PLUS reviewers would ultimately be proposed at this location.

We would also like to underscore that although this project appears to be a part of a multi-phase plan including residential uses, our review was limited to the rezoning of the 19.92 acres in this case. One portion of this larger plan was the subject of PLUS application 2005-06-22, and we have already commented on it in that context. Our PLUS comments from application 2005-06-22 still stand, and have not been amended in any way by this PLUS review.

Some of the comments from the various State Agencies address the proposed configuration of the shopping center. These comments are provided for your information and it is hoped that they will be helpful as you and your client decide on the ultimate design of the commercial area should the rezoning application be successful.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Kent County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

Executive Summary

The following section includes some site specific highlights from the agency comments found in this letter. This summary is provided for your convenience and reference. The full text of this letter represents the official state response to this project. ***Our office notes that the applicants are responsible for reading and responding to this letter and all comments contained within it in their entirety.***

State Strategies/Project Location

This rezoning is located in Investment Level 1 according to the *Strategies for State Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. Our office has no objections to the proposed rezoning in accordance with the relevant County codes and ordinances.

Street Design and Transportation

The developer should be prepared to address the recommendation from DelDOT as noted in their TIS letter dated June 3, 2005 (copy attached)

The site design should include sidewalk along the highway frontage and a concrete pad where riders can wait for the DART bus.

Natural and Cultural Resources

A blue line stream bisects the forest on site. The developer is encouraged to provide a 100-foot vegetated buffer from the water body. This buffer should include the existing trees on site.

The following are a complete list of comments received by State agencies:

Office of State Planning Coordination – Contact: David Edgell 739-3090

The rezoning of this property is at the discretion of Kent County Levy Court. Should the Levy Court ultimately choose to grant this rezoning request, a comprehensive plan amendment will be required. This rezoning is located in Investment Level 1 according to the *Strategies for State Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. Our office has no objections to the proposed rezoning in accordance with the relevant County codes and ordinances.

Division of Historic and Cultural Affairs – Contact: Robin Bodo 739-5685

The North Dover Park Center project has the potential to impact cultural resources and therefore, the Division of Historical and Cultural Affairs recommends the property owner/developer consider undertaking a cultural resource study of the project area before proceeding. Burials, both marked and unmarked, are protected by Delaware law. Please refer to the following sections of the Delaware State Code: (1) Title 11 Sub-Chapter 1340, titled “Desecration of Burial Places”; and (2) Title 7 Chapter 54, known as the “Delaware Unmarked Human Remains Act”. For more information about these laws and the implications for the project, contact Craig Lukesic of this office at 302-736-7400.

The Division provides a list of qualified consultants on our web site at <http://www.state.de.us/shpo/PDF/Consultants.pdf>.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) A traffic impact study (TIS) was scoped for both the proposed commercial development and the Victorian Village modular homes on June 17, 2004. The completed report was sent to DelDOT for review and comment on March 11, 2005. DelDOT completed their review and sent comments to Kent County on June 15, 2005. A copy of that letter is enclosed, but the recommendations in it can be summarized as follows:
 - a) The developer should extend the southbound left-turn lane on US Route 13 at the intersection with Fork Branch Road/Dyke Branch Road to approximately 420 feet (not including taper). This will require that the extended left-turn lane begin approximately at the Marian Drive crossover on US Route 13.
 - b) Internal sidewalks should be provided within the development. A minimum of a five-foot sidewalk (with a minimum of a three-foot buffer

from the roadway) should be included along the site frontage of the proposed development on both US Route 13 and Moffitt Drive.

- c) The developer should modify the unsignalized US Route 13/Moffitt Drive intersection to prohibit eastbound left turns from Moffitt Drive onto northbound US Route 13.
- 2) The shopping center would be served by DART First State Route 301, which provides intercounty bus service between Wilmington and Dover. For that reason, the site design should include sidewalk along the highway frontage and a concrete pad where riders can wait for the bus. For more information regarding Route 301 or the design and optimum location of the pad, the developer should contact Mr. Wayne Henderson, a service development planner for the Delaware Transit Corporation. He may be reached at (302) 577-3278.
- 3) DelDOT supports the comments from the Department of Natural Resources and Environmental Control's Division of Parks and Recreation on the need for bicycle and pedestrian facilities within the shopping center.
- 4) If the rezoning is approved and the property is developed as proposed, the developer should contact Mr. Brad Herb, DelDOT project manager for Kent County, regarding their specific requirements for access. He may be reached at (302) 266-9600.

The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071

Soils

Based on Kent County soil survey mapping Sassafras, Woodstown, and Fallsington, were mapped on subject parcel. Sassafras is a well-drained upland soil that, generally, has few limitations for development. Woodstown is a moderately well-drained soil of low-lying uplands that has moderate limitations for development. Fallsington is a poorly-drained wetland associated (hydric) soil that has severe limitations for development.

Wetlands

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of palustrine wetlands. PLUS application materials indicate that wetlands have been delineated. This delineation should be verified Corps of Engineers through the Jurisdictional Determination process.

If impacts are anticipated please note that palustrine wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also

require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process. Disturbance to wetlands should be avoided and vegetated buffers of no less than 100 feet should be employed from all wetlands and water bodies.

To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting. Contact Denise Rawding at (302) 739-4691 to schedule a meeting.

It is also recommended that the Farm Services Agency of the USDA be contacted to assess whether the farmed wetlands on subject parcel meet the recognized criteria for classification as “prior converted wetlands.” Prior converted wetlands are farmed wetlands that have drained or altered before December 23, 1985, and no longer meet the wetland criteria established under the 404 program. Such wetlands are considered exempt from regulatory protection provided that there is no proof of a continuous “fallow period” of five years or greater in that parcel’s cropping history. Parcels converted after said date regardless of cropping history are considered jurisdictional by the USDA. The contact person for assessing a parcel’s cropping history is Sally Griffin at the USDA – she can be reached by phone at 678-4182.

Water Bodies

A blue line stream bisects the forest on site. The developer is encouraged to provide a 100-foot vegetated buffer from the water body. This buffer should include the existing trees on site. Please note that impacts to streams and associated riparian wetlands are regulated by the Subaqueous Land Section from DNREC Division of Water Resources and the Army Corps of Engineers.

Impervious Cover

The creation of a relatively large expanse of impervious cover (reported as 52%) through the proposed siting of a relatively large office/retail complex on subject parcel is likely to significantly increase the contribution of contaminant-laden runoff draining to waters of the St. Jones and Leipsic River subwatersheds. In fact research findings have consistently shown that once a watershed exceeds a threshold of 10 percent imperviousness, irreversible declines in water and habitat quality are almost always the consequence. Research has also shown that the degree of water and habitat quality decline – beyond the 10 percent threshold – is directly correlated with increasing percentage levels of watershed imperviousness. Information compiled by the University of Delaware through analysis of 2002 aerial photography indicated that the Leipsic and St. Jones watersheds – at this time period – had about 5.1 and 16.2 percent impervious cover, respectively. However, given that the data is three years old, current impervious cover figures are

likely to be considerably higher. In light of need to be proactive and to reduce the cumulative impacts from this development and others within said watersheds, the applicant is strongly urged to mitigate for such impacts through both natural and constructed Best Management Practices (BMPs). Reducing the amount of impervious surface through the planting/preservation of trees (especially adjacent to wetlands/waterways), and the use of pervious paving surfaces ("pavers") in lieu of asphalt or concrete - are examples of ways to reduce such impacts.

TMDLs

A Total Maximum Daily Load (TMDL) is the maximum level of pollution for which a water quality limited water body can assimilate without compromising use and recreational goals such as swimming, fishing, drinking water, and shell fish harvesting. Although TMDLs as a "pollution runoff mitigation strategy" to reduce nutrient loading have not yet been developed for the St. Jones and Leipsic River subwatersheds to date, work is continuing on their development and they should be completed by December 2006.

Therefore, until the specified TMDL reductions and pollution control strategies are adopted, it shall be incumbent upon the developer to employ best available technologies (BATs) and/or best management practices (BMPs) as "methodological mitigative strategies" to reduce degradative impacts associated with development. Reducing imperviousness, preservation and/or planting trees, and maintaining at least a 100-foot upland buffer from all streams and wetlands are some examples of mitigative strategies to reduce nutrient runoff impacts. The applicant should be made aware that the inclusion of stormwater management, wastewater treatment, buffers and wetlands as metrics for open space calculations - may understate the actual TMDL nutrient loading and, subsequently, the actual nutrient runoff as calculated from the nutrient budget protocol.

Water Resource Protection Areas

The DNREC Water Supply Section has determined that the project falls partially within a wellhead protection area for Victorian Village Mobile Home Park (see following map and attached map). Wellhead protection areas are surface and subsurface areas surrounding a public water supply well where the quantity and quality of groundwater moving toward such wells may be adversely affected by land use activities. The proposed development will change the impervious cover from 11.1% to 52.3%.

The public well serves the Victorian Village Mobile Home Park. This is the same parcel as the proposed commercial development. The proposed commercial development will require 20,912 gallons per day of water. This figure is from the PLUS application. The development plan proposes to obtain water from a pipeline extension from the Cheswold Business Park as supplied by Tidewater Utilities. There will be no need to have the current public well onsite.

In order to avoid any potential limitations to the land use in the wellhead protection area, the developer should have the public well abandoned by a Delaware Licensed driller. Once the well is abandoned the wellhead protection area can be removed from this area thus removing the impervious cover recommendations. Another option would be to apply to DNREC Water Resources to have the well reclassified as something other than a public or miscellaneous public well. The water could not be used for public consumption as outlined in the Delaware Regulations Governing the Construction and Use of Wells.

Should the developer not wish to abandon or reclassify the well, the DNREC Water Supply Section recommend that the portion of the new development within the wellhead protection area not exceed 50% impervious cover. Further, some allowance for augmenting ground-water recharge should be considered if the impervious cover exceeds 20% but is less than 50% of that portion of the parcel within this area. The purpose of an impervious cover threshold is to minimize loss of recharge (and associated increases in storm water) and protect the quality and quantity of ground water and surface water supplies.

According to the State law that created the Source Water Protection Program, county and municipal governments with more than 2,000 residents will be required to enact ordinances to protect Water Resource Protection Areas. Municipalities with fewer than 2,000 residents are encouraged to enact such ordinances. The following language has been excerpted from the Source Water Protection Guidance Manual for Local Governments, Supplement 1 - Ground-Water Recharge Design Methodology. While the local ordinances may not yet be in place, the developer may find the language useful in modifying the site plan to protect water resources.

Water Resource Protection Areas (WRPAs) are defined as (1) surface water areas such as floodplains, limestone aquifers, and reservoir watersheds, (2) wellhead areas, or (3) excellent recharge areas. The purpose of an impervious cover threshold is to minimize loss of recharge and protect the quality and quantity of ground and surface water supplies in WRPAs.

New development in WRPAs may exceed the 20% impervious cover threshold, but be no more than 50% impervious, provided the applicant submits an environmental assessment report recommending a climatic water budget and facilities to augment recharge. The environmental assessment must document that post-development recharge will be no less than predevelopment recharge when computed on an annual basis.

Commonly, the applicant offsets the loss of recharge due to impervious cover by constructing recharge basins that convey relatively pure rooftop runoff for infiltration to ground water.

The Department recommends the following (ranked in order of preference):

- 1) Preserve WRPAs as open space and parks by acquisition or conservation easement.

- 2) Limit impervious cover of new development to 20% by right within WRPA's.
- 3) Allow impervious cover of new development to exceed 20% within WRPA's (but no more than 50% impervious) provided the applicant develops recharge facilities that directly infiltrate rooftop runoff.
- 4) Allow impervious cover of new development to exceed 20% within WRPA's (but no more than 50% impervious) provided the applicant develops recharge facilities that infiltrate stormwater runoff from forested and/or grassed surfaces with pretreatment.

For more information, refer to:

Source Water Protection Guidance Manual for the Local Governments of Delaware at
<http://www.wr.udel.edu/swaphome/phase2/SWPguidancemanual.html>

and

Ground-Water Recharge Design Methodology at
http://www.wr.udel.edu/swaphome/phase2/Publications/swapp_manual_final/swapp_guidance_manual_supp_1_2005_05_02.pdf

North Dover Park Center with affected parcel in light blue and wellhead protection area in dark red.



Water Supply

The project information sheets state water will be provided to the project by Tidewater Utilities via a central water system. Our records indicate that the project is located within the public water service area granted to the Tidewater Utilities under Certificate of Public Convenience and Necessity PSC-1190.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Potential Contamination Sources do exist in the area, and any well permit applications will undergo a detailed review that may increase turnaround time and may require site specific conditions/recommendations. In this case there is: a Superfund site called Mays Body Shop within 1000 feet of the proposed project.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-9944.

Sediment and Erosion Control/Stormwater Management

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. The plan review and approval as well as construction inspection will be coordinated through **Kent Conservation District**. Contact Jared Adkins at (302) 741-2600, ext. 3, for details regarding submittal requirements and fees.

As of April 11, 2005, stormwater best management practices must also consider water quality as well as quantity in impaired water bodies.

Drainage

The Drainage Program implemented a drainage improvement project in the area of this project in 2000. There are still drainage concerns in the area that could not be addressed by the drainage improvement project. The Drainage Program requests the Kent Conservation District Sediment and Stormwater program check for sufficient outlet for this proposed project.

Wetlands Statewide Wetland Mapping Project (SWMP) maps indicate the presence palustrine forested wetlands on the property. The Drainage Program request the project protects the wetlands and riparian buffers on this project. Additional water quality measures are encouraged on this project.

The Drainage Program requests that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

Open Space

To maximize the existing buffering capacity for water quality and wildlife habitat on site, it is recommended that lot lines and other infrastructure (such as storm water management ponds) be pulled out of the forest and that areas of community open space be designated along the forested/riparian areas. Doing so will preserve and expand the existing buffers on site and its value for birds and wildlife and it will create recreational opportunities for residents.

In areas set aside for passive open space, the developer is encouraged to consider establishment of additional forested areas or meadow-type grasses. Once established, these ecosystems provide increased water infiltration into groundwater, decreased run-off into surface water, air quality improvements, and require much less maintenance than traditional turf grass, an important consideration if a homeowners association will take over responsibility for maintenance of community open spaces.

Open space containing forest and/or wetlands should be placed into a permanent conservation easement or other permanent protection mechanism. Conservation areas should also be demarked to avoid infringement by homeowners.

Underground Storage Tanks

There are two inactive LUST site(s) located near the proposed project:

Dykes Branch Pump Station #16, Facility # 1-000636, Project # K9811192
Reichold Chemicals Inc., Facility # 1-000041, Project # K9109194

No environmental impact is expected from the above inactive/active LUST site(s). However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel in the contaminated areas.

State Fire Marshal's Office – Contact: John Rossiter 302-739-4394

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

The DE State Fire Marshal's Office has no objection to the re-zoning of the property.

a. **Fire Protection Water Requirements:**

- Water distribution system capable of delivering at least 1500 gpm for 2-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
- Where a water distribution system is proposed for (Mercantile) sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

b. **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq.ft., 3-stories or more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

c. **Accessibility**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from US Route 13 must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.

- The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
 - The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.
- d. **Gas Piping and System Information:**
- Provide type of fuel proposed, and show locations of bulk containers on plan.
- e. **Required Notes:**
- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
 - Proposed Use
 - Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
 - Square footage of each structure (Total of all Floors)
 - National Fire Protection Association (NFPA) Construction Type
 - Maximum Height of Buildings (including number of stories)
 - Note indicating if building is to be sprinklered
 - Name of Water Provider
 - Letter from Water Provider approving the system layout
 - Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
 - Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Milton Melendez 698-4500

Neither the Delaware Department of Agriculture nor the Delaware Forest Service opposes the proposed rezoning by the North Dover Park Center application. The site is located in a designated controlled development area. The *Strategies for State Policies and Spending* encourage responsible development in areas within a Growth Level 1 Zone; the Delaware Department of Agriculture and the Delaware Forest Service supports growth within these areas, and encourages the applicant to contact our the offices so we may be of service. Finally, as the project develops the Delaware Forest Service recommends the following to further develop forest resources within the project:

Right Tree for the Right Place

The Delaware Department of Agriculture Forest Service encourages the developer to use the "Right Tree for the Right Place" for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource.

Native Landscapes

The Delaware Department of Agriculture and the Delaware Forest Service encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and will clean our rivers and creeks of storm-water run-off pollutants. To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500.

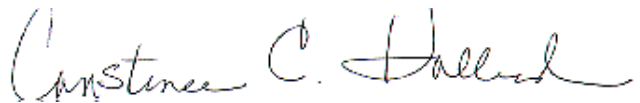
Public Service Commission - Contact: Andrea Maucher 739-4247

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in dark ink, appearing to read "Constance C. Holland". The signature is fluid and cursive, with the first name "Constance" being more prominent.

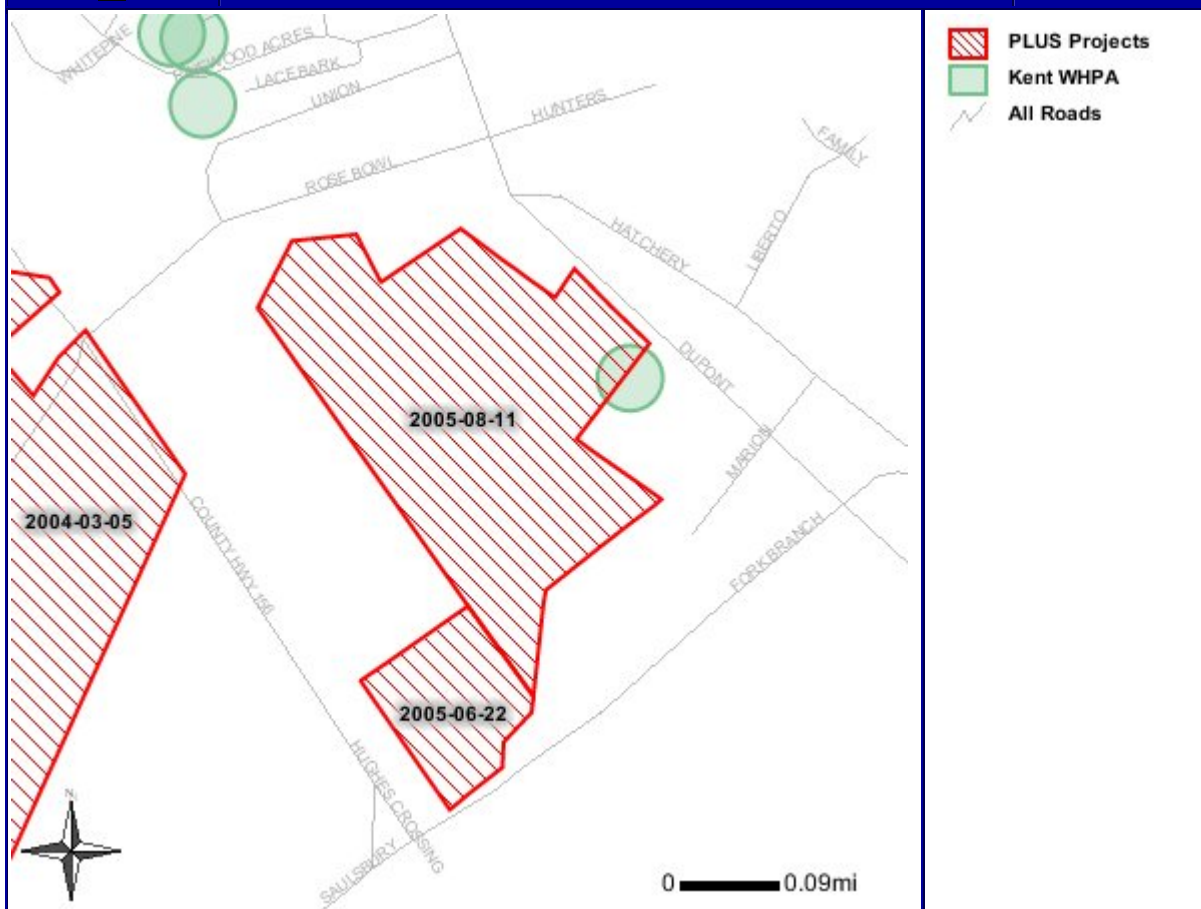
Constance C. Holland, AICP
Director

CC: Kent County



North Dover Park Center

2005-08-11



This map was produced by the Delaware Department of Natural Resources and Environmental Control.

